

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

Criminal Misc. No. M-37041 of 2014

Date of Decision:- 9.1.2015

Anurag Garg & Ors.

....Petitioners

Versus

State of Punjab & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR

Present:- Mr.Aayush Gupta, Advocate for the petitioners.

Mr.R.P.S.Sidhu, AAG Punjab for respondent No.1.

Nemo for respondent No.2.

Mehinder Singh Sullar, J. (Oral)

The compendium of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record, is that initially, in the wake of complaint of complainant Karamjeet Kaur, d/o Daljit Singh, respondent No.2 (for brevity “the complainant”), a criminal case was registered against petitioners-accused Anurag Garg s/o late Diwan Chand Garg and others, vide FIR No.61 dated 30.9.2013 (Annexure P1), on accusation of having committed the offences punishable u/ss 406, 498-A and 323 read with section 34 IPC by the police of Police Station Women Cell, Bathinda.

2. During the course of investigation of the criminal case, good sense prevailed and the parties have amicably settled their matrimonial disputes, by virtue of compromise deed dated 29.9.2014 (Annexure P-2) and affidavit dated 7.10.2014 (Annexure P3) of complainant.

3. Having compromised the matter, the petitioners-accused have preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC, inter-alia, pleading that now with the intervention of respectable persons of society, the parties have amicably settled their matrimonial disputes, vide indicated compromise deed (Annexure P2). The complainant has also reiterated the factum of compromise in her affidavit (Annexure P3). In pursuance thereof, petitioner No.1 and complainant have already filed a divorce petition for dissolution of their marriage by mutual consent u/s 13-B of The Hindu Marriage Act, 1955 (hereinafter to be referred as “the Act”). The parties have redressed their grievances and have no grudge against each other. The complainant has no objection if the criminal case registered against the petitioners, by means of impugned FIR is quashed. On the strength of aforesaid grounds, they sought to quash the impugned FIR (Annexure P-1) and all other consequent proceedings arising thereto in the manner described here-in-above.

4. During the course of preliminary hearing, the Magistrate, having the jurisdiction, was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise deed (Annexure P2) and affidavit (Annexure P3) of complainant, by way of order dated 31.10.2014 by this Court.

5. In compliance thereof, the Magistrate, having recorded the statements of all the concerned parties, has reported, by means of her report dated 1.12.2014, that the settlement is voluntarily, genuine and without any pressure, undue influence or coercion.

6. Meaning thereby, it stands proved on record that the parties have amicably settled their matrimonial disputes, by virtue of compromise deed (Annexure P2), affidavit (Annexure P3) of complainant and the pointed report of the Magistrate.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of such disputes, by way of amicable settlement between the parties is no more *res integra* and is now well-settled.

8. An identical question came to be decided by the Hon'ble Supreme Court in case Gian Singh Versus State of Punjab and another, **2012 (4) RCR (Criminal) 543**. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (para 57) as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for

quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

9. Sequelly, the same view was reiterated by the Hon'ble Apex Court in case Narinder Singh & others v. State of Punjab & Anr. 2014 (2) RCR (Criminal) 482.

10. Above being the legal position and the material on record, now the short & significant question, though important, that arises for determination in the petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not ?

11. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned

counsel are *ad idem* that, in view of the settlement of disputes between the parties, the instant petition deserves to be accepted in this respect.

12. As is evident from the record that, now with the intervention of respectable persons of society, the parties have amicably settled their matrimonial disputes, vide indicated compromise deed (Annexure P2). The complainant has also reiterated the factum of compromise in her affidavit (Annexure P3). In pursuance thereof, petitioner No.1 and complainant have already filed a divorce petition for dissolution of their marriage by mutual consent u/s 13-B of the Act. They want to live in peace & harmony in future in the society and put an end to their litigation. The settlement is stated to be in the welfare and benefit of the parties in particular and in larger public interest of the society in general. The complainant has no objection if the criminal case registered against the petitioners, by means of impugned FIR is quashed. The factum and genuineness of the compromise between them is also reiterated by the Magistrate in her indicated report.

13. Therefore, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Thus, to me, the ratio of the law laid down and the bench-mark set out by the Hon'ble Supreme Court in cases of **Gian Singh & Narinder Singh & Ors. (supra)**, “mutatis mutandis” is applicable to the facts of the present case and is the complete answer to the problem in hand. Similarly, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

14. In the light of the aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.61 dated 30.9.2013 (Annexure P-1) and all other consequent proceedings arising thereto, are hereby quashed. The petitioners-accused are accordingly discharged from the indicated criminal case on the basis of compromise, subject to all just exceptions.

15. Needless to mention that in case, the petitioners fail to comply with the terms and conditions of the pointed compromise, then, the criminal prosecution would be deemed to have been automatically revived and prosecution would be at liberty to prosecute them for the indicated offences.

9.1.2015
AS

(Mehinder Singh Sullar)
Judge